

EM
5632

NOTICE OF INTENT TO APPEAR

CORDUA IRRIGATION DISTRICT plans to participate in the water right hearing regarding
(Name of Party or Participant)

Yuba County Water Agency (YCWA)
Petition to Modify Water Right Permits 15026, 15027 and 15030
(Applications 5632, 15204 and 15574)

and
Petition for Long-Term Transfer of up to 200,000 Acre-Feet of Water from YCWA to the
Department of Water Resources (DWR) and the United States Bureau of Reclamation (USBR)
under Permit 10506 (Application 5632)

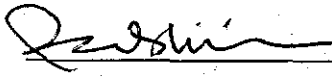
scheduled for
Wednesday, December 5, 2007, and continuing,
if necessary, on Thursday, December 6, 2007.

- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we agree to accept electronic service of hearing-related materials.
- I/we plan to call the following witnesses to testify at the hearing.

NAME	SUBJECT OF PROPOSED TESTIMONY	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)
CHARLES MATHEWS	Waterfowl Habitat/Farming use of water in area north of Yuba River	1/2 hr.	Yes
To Be Identified	Waterfowl Habitat Expert	3/4 hr.	Yes
To Be Identified	Rice Straw Decomposition Expert	1/2 hr.	Yes

(If more space is required, please add additional pages or use reverse side.) **SEE ATTACHED**

Name, Address, Phone Number and Fax Number of Attorney or Other Representative

Signature:  Dated: 10/4/07

Name (Print): PAUL R. MINASIAN, Esq., MINASIAN, SPRUANCE, MEITH, SOARES & SEXTON, LLP

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**Attachment to Notice of Intent to Appear by Cordua Irrigation District
 YCWA Petition to Modify Water Rights Permits 15026, 15027 & 15030 and
 Petition for Long-Term Transfer of up to 200,000 Acre-Feet of Water
 from YCWA to DWR & USBR under Permit 10506
 Scheduled for 12/05/07 & 12/06/07**

NAME	SUBJECT OF PROPOSED TESTIMONY	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)
To Be Identified	Persons knowledgeable in actual water use by federal and state refuges October through January – by Subpoena from SWRCB	3 hrs.	

In Decision 1644, the SWRCB included pages 110 and 111, which purported to determine that the maximum reasonable and beneficial use North of the Yuba River during the periods October 1 through January for waterfowl habitat and straw decomposition which also provides feed for waterfowl.

This language was included as an explanation of how Decision 1644 fish flow requirements would not impact other uses. Unfortunately, although intended by the SWRCB Staff and Board as an explanation of how Decision 1644 would not limit local uses, the wording used purported to establish a reasonable and beneficial use limit of one (1) acre foot per overlying acre as a “reasonable and beneficial use” finding and a 10% delivery factor from the Yuba River.

In fact, waterfowl habitat and straw decomposition use is reasonable and beneficial at much higher levels of use. Many of the federal and state refuges are provided under the CVPIA and Refuge supply contracts triple and quadruple those amounts of water during the same period.

Further, during dry periods, the use of the North Yuba area by early arriving waterfowl makes it particularly critical that habitat be provided and evaporation, percolation and the need to keep water circulating to avoid disease spreading, all require greater amounts of water.

Cordua Irrigation District has filed a petition with the SWRCB to provide for the removal of these pages and conclusions from Decision 1644. To purport to provide for approval for transfer without removal of the erroneous conclusions within the Decision would restrict uses within Yuba County which are reasonable and beneficial and therefore violate the requirements of the Yuba County Water Agency that only surplus water may be transferred, to say nothing of the violations of CEQA and the Water Code standard that transfers will be permitted only if there is no harm to other lawful and beneficial uses. It is respectfully suggested that no determination of the reasonable amounts available for transfer can be made without resolution of this issue.

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Cordua Irrigation District respectfully requests that the issue of removal of this language be added as a subject of the hearing and consideration of the petition for change filed by Cordua Irrigation District.

If the SWRCB does not wish to add the issue, the action of removal of the pages should occur in any regard, since no finding of water available for transfer can be made until the proper amount of water usage for waterfowl and straw decomposition within the area of Yuba County, which is both a County of Origin protected area and the area protected by the stringent requirements of Water Code Section 1736. In light of the fact that the EIR is prepared and utilizes water in excess of the Page 110-111 amounts in assuming the Yuba County needs, it is appropriate that this language be removed.